



GOVERNOR DIRK KEMPTHORNE COMMENTS AT SRBA BILL SIGNING CEREMONY

**Borah Building
March 24, 2005 – 12:15 pm**

Today marks a historic landmark for all Idahoans because today, the State of Idaho officially ratifies the Nez Perce Settlement Agreement. We are gathered in a particularly symbolic place—a courtroom. Yet, we are not gathered here as parties to litigation, as we would have been had we not sorted out these issues. Rather, we have come together to witness one of the final steps in a process that allows us to avoid protracted legal battles.

The Snake River is one of our country's most unique rivers. It bends from eastern Idaho to the Treasure Valley in the west and then into the Columbia in the northern part of this State. Like the Snake River, this agreement also took a winding path before reaching this point.

Negotiations for the Nez Perce Settlement Agreement began over five years ago between the State of Idaho, the Nez Perce Tribe, the federal government, Idaho's water users, as well as other stakeholders. The Nez Perce Tribe laid claim to virtually all water rights in the Snake River and its tributaries based on claims under its 1855 treaty, concluding with a proclamation signed by President James Buchanan, and the 1863 treaty, affirmed by President Andrew Johnson and his proclamation. Under this settlement the tribe will waive those claims forever.

Last May, I had the privilege of announcing with Secretary of Interior Gale Norton and Chairman Anthony Johnson of the Nez Perce Tribe that the parties involved had agreed to significant terms for the benefit of all Idahoans. These parties came together to overcome their differences and found solutions to benefit the entire state.

At that time, I promised to take the agreement to Washington to gain approval from the federal government. After Congress passed the agreement and President Bush signed it, I pledged to work with the state legislature for their approval as well.

The legislature recognized the importance of this agreement, and saw that it would:

- maintain state sovereignty;
- offer certainty; and
- provide opportunity.

Our lawmakers agreed that this legislation preserves existing water rights, settles Nez Perce Tribal claims, and protects flows and habitat. Additionally, this agreement provides a framework to protect our water users under the Endangered Species Act and will preserve access to state and private timberlands for our resource-based industries and the rural communities that depend on Idaho's forests.

By signing these three bills into law, Idaho is able to:

- Access millions of dollars authorized by the federal government;
- Avoid costly and protracted litigation;
- Receive Endangered Species Act protection for thirty years;
- Protect current water rights and assure future development for domestic, commercial, municipal, and industrial users;
- Maintain control over 200,000 acre-feet in Dworshak Reservoir for resident fish and recreational opportunities;
- Improve instream flows for listed species in the Salmon and Clearwater Basins; and
- Establish a *voluntary* forest program for owners and operators to receive ESA protection.

We have overcome significant skepticism during this entire process. But, we reached out to those who had concerns. We accounted for the potential loss of taxes to local communities through Payment in Lieu of Taxes reimbursements. We also found a means to protect critical Dworshak flows. Additionally, we will continue to work with Idahoans in need of transition or flexibility regarding the BLM land transfer to the tribe.

This agreement has opened a new chapter in state-tribal relations and I would encourage the tribe to reach out to their north Idaho neighbors to minimize any remaining uneasiness. Each of the parties to this agreement has a responsibility to be good neighbors to all Idahoans, and it is my hope that the goodwill forged between the State, Tribe, and Federal government will continue into the future.

The Snake River Basin Adjudication, of which this agreement is a major part, has spanned four executive administrations in Idaho and four administrations in Washington, DC. In 1985, the Idaho Legislature laid out a process to adjudicate, or resolve and prioritize all the water right claims within the Snake River and its tributaries. In 1993, the Nez Perce Tribe filed its claims as part of the Snake River Basin Adjudication process, and as you can imagine, adjudicating all of the competing interests for Idaho water has been a monumental task.

In the beginning, there were nearly 150,000 water rights in question in 38 of Idaho's 44 counties. Today, we have only 20,000 left to adjudicate or resolve and prioritize. When we finish these remaining claims we will have wound our way through the largest adjudication in the nation.

House Bill 152 authorizes the agreement, House Bill 153 provides water rental for flow augmentation, and House Bill 154 establishes minimum stream flow water rights.

This is a monumental achievement and there are many individuals that deserve recognition. The legislature should be commended for their wisdom in approving this important agreement. Particularly, I would like to commend President Pro Tem Geddes and Speaker Newcomb for their leadership. Additionally, I would like to thank the legislative sponsors for their hard work on this issue, including Senate Chairman Don Burtenshaw and House Chairman Bert Stevenson as well as Senator Clint Stennett and Representatives Dell Raybould, Scott Bedke, and Wendy Jaquet.

Additionally, I want to thank our outstanding Congressional delegation, Senators Craig and Crapo, as well as Representatives Otter and Simpson, for their extraordinary effort in moving this agreement through Congress. I would also like to thank President Bush and his Administration, Secretary Norton and her team, including Ann Klee; as well as John Keys, the Commissioner of the Bureau of Reclamation, and Bob Lohn of NOAA fisheries.

I would also like to recognize Director Karl Dreher of the Idaho Department of Water Resources, Clive Strong from the Idaho Attorney General's Office, and Michael Bogert, my former counsel.